

BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: April 16, 2003

Division: County Administrator

Bulk Item: Yes No X

Department: County Administrator

AGENDA ITEM WORDING:

Discussion of request by various municipalities that the County consider new sharing arrangements for gas taxes.

ITEM BACKGROUND:

Various municipalities have passed Resolutions asking the County to consider sharing more gas tax funds. There has been recognition that the County has no legal obligation to do so. The enclosed summary has been prepared by the County Attorney's office.

PREVIOUS RELEVANT BOCC ACTION:

N/A

CONTRACT/AGREEMENT CHANGES:

N/A

STAFF RECOMMENDATIONS:

The BOCC should not approve the sharing of additional funds since gas taxes are totally programmed in the Seven-Year Road/Bridge and Bike Path Capital Plan.

TOTAL COST: Unknown

BUDGETED: Yes No

COST TO COUNTY: Unknown

SOURCE OF FUNDS:

REVENUE PRODUCING: Yes No **AMOUNT PER MONTH** **Year**

APPROVED BY: County Atty X OMB/Purchasing X Risk Management

DIVISION DIRECTOR APPROVAL:



James L. Roberts

DOCUMENTATION: Included X To Follow Not Required

DISPOSITION:

AGENDA ITEM # 04

MOTOR FUEL/DIESEL FUEL TAXES

Authority	206.41(1)(a), F.S.	206.41(1)(b), F.S.	206.41(1)(c), F.S.	206.41(1)(d), F.S.	206.41(1)(e), F.S.
Imposed	State	State	State	County	County
Name	"Constitutional Fuel Tax"	"County Fuel Tax"	"Municipal Fuel Tax"	"9 th Cent"	"Local Option"
Amount	2 Cents/Gallon	1 Cent/Gallon	1 Cent/Gallon	1 Cent/Gallon	Up To 11 Cents /Gallon
Used For	1- Road Acquisition 2- Road Construction -Including Installation Of -Traffic Signals -Sidewalks -Bicycle Paths -Landscaping 3- Road Maintenance -Periodic -Routine 4- Grant Matching Funds (F.S. 206.47(7), 334.03, 336.023, 336.024)	1-Acquisition of Rights-Of-Way 2- Construction, Reconstruction, Operation, Maintenance, & Repair Of Transportation Facilities, Roads, and Bridges 3- Reduction Of Bonded Indebtedness (206.60(1)(b)1, F.S.)	1- Purchase of Transportation Facilities and Road and Street Rights-of-Way, Construction, Reconstruction, Maintenance of Roads and Streets 2- Adjustment of City-owned Utilities as Required by Road and Street Construction 3- Construction, Reconstruction, Transportation-Related Public Safety Activities, Maintenance and Operation of Transportation Facilities 4-Municipality-County Joint Projects (206.605(2), F.S.)	1- Public Transportation Operations and Maintenance 2- Roadway and Right-Of-Way Maintenance and Equipment And Structures Used Primarily For the Storage And Maintenance of Such Equipment 3- Roadway and Right-Of-Way Drainage 4- Street Lighting 5- Traffic Signs, Traffic Engineering, Signalization, and Pavement Markings 6- Bridge Maintenance and Operation 7- Debt Service/Capital Projects Expenditures, Including Road Construction/Reconstruction (336.025(1)(a) & (7), F.S.)	1- Public Transportation Operations and Maintenance 2- Roadway and Right-Of-Way Maintenance and Equipment And Structures Used Primarily For the Storage And Maintenance of Such Equipment 3- Roadway and Right-Of-Way Drainage 4- Street Lighting 5- Traffic Signs, Traffic Engineering, Signalization, and Pavement Markings 6- Bridge Maintenance and Operation 7- Debt Service/Capital Projects Expenditures, Including Road Construction/Reconstruction (336.025(1)(a) & (7), F.S.)
Sharing Ability	No Authorization For Municipalities To Receive Share	No Authorization For Municipalities To Receive Share	No Authorization For County to Receive Share, Except For Joint Projects	"May" Share With Municipalities By Joint Agreement	"May" Share With Municipalities By Interlocal Agreement. If No Agreement, Proportional Formula For Distribution
NOTES:				County Has Not Levied This Tax	County Has Levied 6-Cents Tax

AUTHORITY TO LEVY FUEL TAXES

206.41 State taxes imposed on motor fuel.--

- (1) The following taxes are imposed on motor fuel under the circumstances described in subsection (6):
- (a) An excise or license tax of **2 cents per net gallon**, which is the tax as levied by s. 16, Art. IX of the State Constitution of 1885, as amended, and continued by s. 9(c), Art. XII of the 1968 State Constitution, as amended, which is therein referred to as the **"second gas tax,"** and which is hereby designated the **"constitutional fuel tax."**
- (b) An additional tax of **1 cent per net gallon**, which is designated as the **"county fuel tax"** and which shall be used for the purposes described in s. 206.60.
- (c) An additional tax of **1 cent per net gallon**, which is designated as the **"municipal fuel tax"** and which shall be used for the purposes described in s. 206.605.
- (d) An additional tax of **1 cent per net gallon** may be imposed by each county on motor fuel, which shall be designated as the **"ninth-cent fuel tax."** This tax shall be levied and used as provided in s. 336.021.
- (e) An additional tax of **between 1 cent and 11 cents per net gallon** may be imposed on motor fuel by each county, which shall be designated as the **"local option fuel tax."** This tax shall be levied and used as provided in s. 336.025.

206.87 Levy of tax.--

- (1) (a) An excise tax of **4 cents per gallon** is hereby imposed upon each net gallon of **diesel fuel** subject to the tax under subsection (2), except alternative fuels which are subject to the fee imposed by s. 206.877.
- (b) An additional tax of **1 cent per net gallon** shall be imposed by each county on each net gallon of **diesel fuel**, which shall be designated as the **"ninth-cent fuel tax."** This tax shall be used as provided in s. 336.021.
- (c) An additional tax of **6 cents per net gallon** shall be imposed on **diesel fuel** by each county, which shall be designated as the **"local option fuel tax."** This tax shall be levied and used as provided in s. 336.025.

336.021 County transportation system; levy of ninth-cent fuel tax on motor fuel and diesel fuel.--

- (1)(a) Any county in the state, by **extraordinary vote** of the membership of its governing body or subject to a referendum, **may levy** the tax imposed by ss. 206.41(1)(d) and 206.87(1)(b).

(6) Notwithstanding any other provision of this section, the tax authorized pursuant to this section shall be levied in every county at the rate of 1 cent per gallon of diesel fuel beginning January 1, 1994.

336.025 County transportation system; levy of local option fuel tax on motor fuel and diesel fuel.--

- (1)(a) In addition to other taxes allowed by law, there may be levied as provided in ss. 206.41(1)(e) and 206.87(1)(c) a 1-cent, 2-cent, 3-cent, 4-cent, 5-cent, or 6-cent local option fuel tax upon every gallon of motor fuel and diesel fuel sold in a county and taxed under the provisions of part I or part II of chapter 206.
- (b) In addition to other taxes allowed by law, there may be levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent, 3-cent, 4-cent, or 5-cent local option fuel tax upon every gallon of motor fuel sold in a county and taxed under the provisions of part I of chapter 206. The tax shall be levied by an ordinance adopted by a majority plus one vote of the membership of the governing body of the county or by referendum.
- (9) Notwithstanding any other provision of this section, the tax on diesel fuel authorized in this section shall be levied in every county at the rate of 6 cents per net gallon.

Diesel Fuel Tax: 7 Cents Per Gallon

"Ninth-cent Fuel Tax"

Sub-Section 336.021(1)(a) provides that the county MAY, by extraordinary vote, levy the 1-Cent tax on DIESEL FUEL as authorized by Sub-Section 206.87(1)(b), F.S.

However, although 336.021(1)(a) says MAY, Sub-Section (6) states: Notwithstanding any other provision of this section, the tax authorized pursuant to this section SHALL be levied in every county at the rate of 1 cent per gallon of diesel fuel beginning January 1, 1994.

Additionally, Sub-Section 206.87(1)(b) also provides that: An additional tax of 1 cent per net gallon SHALL be imposed by each county on each net gallon of DIESEL FUEL, which shall be designated as the "ninth-cent fuel tax".

It thus appears mandatory that the county levy a 1-cent tax on diesel fuel that is called the "ninth-cent fuel tax."

"Local Option Fuel Tax"

Sub-Section 336.021(1)(a) provides that the county MAY, by extraordinary vote, levy the 1-Cent tax on MOTOR FUEL as authorized by Sub-Section 206.41(1)(d), F.S.

However, although 336.021(1)(a) says MAY, Sub-Section 206.87(1)(1) states: An additional tax of 6 cents per net gallon SHALL be imposed on diesel fuel by each county, which shall be designated as the "local option fuel tax".

Further, 336.025 (9) states: Notwithstanding any other provision of this section, the tax on diesel fuel authorized in this section shall be levied in every county at the rate of 6 cents per net gallon."

It thus appears mandatory that the county levy a 6-cents tax on diesel fuel that is called the "local option fuel tax."

Local Option Motor Fuel Tax: 6 Cents Per Gallon

(206.41(1)(e): Authority to Levy Between 1 Cent and 11 Cents per Net Gallon

336.025(1)(a): May levy a 1-cent, 2-cent, 3-cent, 4-cent, 5-cent, or 6-cent "local option fuel tax".

336.025(3): Tax is levied either by
(a) an ordinance adopted by majority vote of county commissioners, subject to an interlocal agreement concerning distribution of the tax proceeds; (b) by referendum; or (c) uniform resolutions by municipalities leading to a countywide referendum.

Ordinance 16-1989 authorized a 6-cent "gas" tax, codified at Sec. 2-315, et seq., Monroe County Code.

NOTE: The provisions of the county code are not consistent with the state statutes. The reference to "gas tax" apparently has no legal basis in state statutes concerning the levy of taxes. (The state statutes refer to a "fuel tax" which has a specific definition. There is no definition for "gas tax.") Additionally, the fuel tax to be imposed on "motor fuel" and "diesel fuel" and there is no definition or reference to "special fuel" as that term is used in the county code.

It could be determined that the county code does not legally impose a fuel tax at all, or in the alternative that there is no tax imposed on diesel fuel. It is recommended that the language in the code be amended to be consistent with state law.

336.025(1)(b): May levy a 1-cent, 2-cent, 3-cent, 4-cent, or 5-cent, "local option fuel tax" by an ordinance adopted by a majority plus one vote, or by referendum.

Apparently, this additional local option fuel tax has not been levied.

Selected Provisions of the
CONSTITUTION OF THE STATE OF FLORIDA
AS REVISED IN 1968 AND SUBSEQUENTLY AMENDED

ARTICLE VII: FINANCE AND TAXATION

SECTION 17. Bonds for acquiring transportation right-of-way or for constructing bridges.—

(a) When authorized by law, state bonds pledging the full faith and credit of the state may be issued, without a vote of the electors, to finance or refinance the cost of acquiring real property or the rights to real property for state roads as defined by law, or to finance or refinance the cost of state bridge construction, and purposes incidental to such property acquisition or state bridge construction.

(b) Bonds issued under this section shall be secured by a pledge of and shall be payable primarily from motor fuel or special fuel taxes, except those defined in Section 9(c) of Article XII, as provided by law, and shall additionally be secured by the full faith and credit of the state.

(c) No bonds shall be issued under this section unless a state fiscal agency, created by law, has made a determination that in no state fiscal year will the debt service requirements of the bonds proposed to be issued and all other bonds secured by the same pledged revenues exceed ninety percent of the pledged revenues available for payment of such debt service requirements, as defined by law. For the purposes of this subsection, the term "pledged revenues" means all revenues pledged to the payment of debt service, excluding any pledge of the full faith and credit of the state.

History.—Added, C.S. for C.S. for S.J.R. 391, 1988; adopted 1988. ...

ARTICLE XII: SCHEDULE

SECTION 9. Bonds.

(c) **MOTOR VEHICLE FUEL TAXES.**

(1) A state tax, designated "second gas tax," of two cents per gallon upon gasoline and other like products of petroleum and an equivalent tax upon other sources of energy used to propel motor vehicles as levied by ⁴Article IX, Section 16, of the Constitution of 1885, as amended, is hereby continued. The proceeds of said tax shall be placed monthly in the state roads distribution fund in the state treasury.

(2) ⁴Article IX, Section 16, of the Constitution of 1885, as amended, is adopted by this reference as a part of this revision as completely as though incorporated herein verbatim for the purpose of providing that after the effective date of this revision the proceeds of the "second gas tax" as referred to therein shall be allocated among the several counties in accordance with the formula stated therein to the extent necessary to comply with all obligations to or for the benefit of holders of bonds, revenue certificates and tax anticipation certificates or any refundings thereof secured by any portion of the "second gas tax."

(3) No funds anticipated to be allocated under the formula stated in ⁴Article IX, Section 16, of the Constitution of 1885, as amended, shall be pledged as security for any obligation hereafter issued or entered into, except that any outstanding obligations previously issued pledging revenues allocated under said ⁴Article IX, Section 16, may be refunded at a lower average net interest cost rate by the issuance of refunding bonds, maturing not later than the obligations refunded, secured by the same revenues and any other security authorized in paragraph (5) of this subsection.

(4) Subject to the requirements of paragraph (2) of this subsection and after payment of administrative expenses, the "second gas tax" shall be allocated to the account of each of the several counties in the amounts to be determined as follows: There shall be an initial allocation of one-fourth in the ratio of county area to state area, one-fourth in the ratio of the total county population to the total population of the state in accordance with the latest available federal census, and one-half in the ratio of the total "second gas tax" collected on retail sales or use in each county to the total collected in all counties of the state during the previous fiscal year. If the annual debt service requirements of any obligations issued for any county, including any deficiencies for prior years, secured under paragraph (2) of this subsection, exceeds the amount which would be

allocated to that county under the formula set out in this paragraph, the amounts allocated to other counties shall be reduced proportionately.

(5) Funds allocated under paragraphs (2) and (4) of this subsection shall be administered by the state board of administration created under Article IV, Section 4. The board shall remit the proceeds of the "second gas tax" in each county account for use in said county as follows: eighty per cent to the state agency supervising the state road system and twenty per cent to the governing body of the county. The percentage allocated to the county may be increased by general law. The proceeds of the "second gas tax" subject to allocation to the several counties under this paragraph (5) shall be used first, for the payment of obligations pledging revenues allocated pursuant to ⁴Article IX, Section 16, of the Constitution of 1885, as amended, and any refundings thereof; second, for the payment of debt service on bonds issued as provided by this paragraph (5) to finance the acquisition and construction of roads as defined by law; and third, for the acquisition and construction of roads and for road maintenance as authorized by law. When authorized by law, state bonds pledging the full faith and credit of the state may be issued without any election: (i) to refund obligations secured by any portion of the "second gas tax" allocated to a county under ⁴Article IX, Section 16, of the Constitution of 1885, as amended; (ii) to finance the acquisition and construction of roads in a county when approved by the governing body of the county and the state agency supervising the state road system; and (iii) to refund obligations secured by any portion of the "second gas tax" allocated under paragraph 9(c)(4). No such bonds shall be issued unless a state fiscal agency created by law has made a determination that in no state fiscal year will the debt service requirements of the bonds and all other bonds secured by the pledged portion of the "second gas tax" allocated to the county exceed seventy-five per cent of the pledged portion of the "second gas tax" allocated to that county for the preceding state fiscal year, of the pledged net tolls from existing facilities collected in the preceding state fiscal year, and of the annual average net tolls anticipated during the first five state fiscal years of operation of new projects to be financed, and of any other legally available pledged revenues collected in the preceding state fiscal year. Bonds issued pursuant to this subsection shall be payable primarily from the pledged tolls, the pledged portions of the "second gas tax" allocated to that county, and any other pledged revenue, and shall mature not later than forty years from the date of issuance

Selected Florida Statutes: Fuel Taxes And County Roads

Chapter 206 MOTOR AND OTHER FUEL TAXES

206.01 Definitions.--As used in this chapter:

(1) "Department" means the Department of Revenue.

...

(7) "**Fuel tax**" means and includes any tax imposed by the laws of the state upon or measured by the sale, use, distribution, or consumption of motor fuel.

...

(9) "**Motor fuel**" or "**fuel**" means **all gasoline products** or any product blended with gasoline or any fuel placed in the storage supply tank of a gasoline-powered motor vehicle.

206.41 State taxes imposed on motor fuel.--

(1) The following taxes are imposed on motor fuel under the circumstances described in subsection (6):

(a) An excise or license tax of **2 cents per net gallon**, which is the tax as levied by s. 16, Art. IX of the State Constitution of 1885, as amended, and continued by s. 9(c), Art. XII of the 1968 State Constitution, as amended, which is therein referred to as the "**second gas tax,**" and which is hereby designated the "**constitutional fuel tax.**"

(b) An additional tax of **1 cent per net gallon**, which is designated as the "**county fuel tax**" and which shall be used for the purposes described in s. 206.60.

(c) An additional tax of **1 cent per net gallon**, which is designated as the "**municipal fuel tax**" and which shall be used for the purposes described in s. 206.605.

(d) An additional tax of **1 cent per net gallon** may be imposed by each county on motor fuel, which shall be designated as the "**ninth-cent fuel tax.**" This tax shall be levied and used as provided in s. 336.021.

(e) An additional tax of **between 1 cent and 11 cents per net gallon** may be imposed on motor fuel by each county, which shall be designated as the "**local option fuel tax.**" This tax shall be levied and used as provided in s. 336.025.

...

206.47 Distribution of constitutional fuel tax pursuant to State Constitution.--

....

(4) The State Board of Administration shall allocate the constitutional fuel tax beginning with the tax collected January 1969 on the formula contained in s. 9(c)(4), Art. XII of the revised State Constitution of 1968, subject only to the debt service requirements of bonds pledging all or part of the constitutional fuel tax allocated under the provisions of s. 16, Art.

IX of the State Constitution of 1885, as amended.

....

(6) The State Board of Administration will calculate a monthly allocation of the constitutional fuel tax received from the Department of Revenue based on the formula contained in s. 9(c)(4),

Art. XII of the revised State Constitution of 1968, and credit to the account of each county the amount of the constitutional fuel tax to be allocated under such formula.

(7) The fuel tax funds credited to each county will be first distributed to meet the debt service requirements, if any, of the s. 16, Art. IX debt assumed or refunded by the State Board of

Administration payable from the constitutional fuel tax. **The remaining fuel tax funds credited to each county are surplus fuel tax funds and shall be distributed as provided by s. 9(c), Art. XII of the State Constitution or by law pursuant to that section and shall be used for the acquisition, construction, and maintenance of roads.** For the purposes of this subsection, the term "maintenance" includes periodic maintenance and routine maintenance, as defined in s. 334.03, and may include the construction and installation of traffic signals, sidewalks, bicycle paths, and landscaping. The funds may be used as matching funds for any federal, state, or private grant specifically related to these purposes.

....

(9) The State Board of Administration will, in each fiscal year, distribute the **80-percent surplus fuel tax** allocated to each county to the debt service requirements of each bond issue pledging the

80-percent surplus accruing to that county under the provisions of s. 16, Art. IX of the State Constitution of 1885, as amended. **The remaining 80-percent surplus fuel tax funds will be advanced monthly, to the extent practicable, to the boards of county commissioners for use in the county.**

(10) The State Board of Administration will, in each fiscal year, distribute the **20-percent surplus fuel tax** allocated to each county to the debt service requirements of each bond issue pledging the

20-percent surplus accruing to that county under the provisions of s. 16, Art. IX of the State Constitution of 1885, as amended. **The remaining 20-percent surplus fuel tax funds will be advanced monthly, to the extent practicable, to the boards of county commissioners for use in the county.**

...

206.60 County tax on motor fuel.--

(1) The proceeds of the county fuel tax imposed pursuant to s. 206.41(1)(b) are appropriated for public transportation purposes in the manner following:

(a) After transferring to the General Revenue Fund the service charge provided for by s. 215.20 and after deducting its administrative costs incurred in the collection, administration, enforcement, and distribution back to the counties of such tax, which administrative costs may not exceed 2 percent of collections, the department shall monthly divide the proceeds of such tax in the same manner as the constitutional fuel tax pursuant to s. 206.47 and the formula contained in s. 9(c)(4), Art. XII of the revised State Constitution of 1968.

(b) 1. The Department of Revenue shall, from month to month, distribute the amount allocated to each of the several counties under paragraph (a) to the board of county commissioners of the county, who shall **use such funds solely for the acquisition of rights-of-way; the construction, reconstruction, operation, maintenance, and repair of transportation facilities, roads, and bridges therein; or the reduction of bonded indebtedness of such county or of special road and bridge districts within such county, incurred for road and bridge or other transportation purposes.** In the event the powers and duties relating to transportation facilities, roads, and bridges usually exercised and performed by boards of county commissioners are exercised and performed by some other or separate county board, such board shall receive the proceeds, exercise the powers, and perform the duties designated in this section to be done by the boards of county commissioners.

2. The board of county commissioners of each county.... shall be assigned **the full responsibility for the maintenance of transportation facilities in the county and of roads in the county road system.**

3. Nothing in this paragraph as amended by chapter 71-212, Laws of Florida, shall be construed to permit the expenditure of public funds in such manner or for such projects as would violate the State Constitution or the trust indenture of any bond issue or which would cause the state to lose any federal aid funds for highway or transportation purposes; and the provisions of this paragraph shall be applied in a manner to avoid such result.

...

(5) It is declared to be the legislative intent that the funds derived from this section shall be used in such manner and for the purposes aforesaid to reduce the burden of ad valorem taxes in the several counties.

206.605 Municipal tax on motor fuel.--

(1) The proceeds of the municipal fuel tax imposed pursuant to s. 206.41(1)(c), after deducting the service charge pursuant to chapter 215 and the administrative costs incurred by the department in collecting, administering, enforcing, and distributing the tax, which administrative costs may not exceed 2 percent of collections, shall be transferred into the Revenue Sharing

Trust Fund for
Municipalities.

(2) Funds available under this section shall be used only for purchase of transportation facilities and road and street rights-of-way, construction, reconstruction, maintenance of roads and streets; for the adjustment of city-owned utilities as required by road and street construction, and the construction, reconstruction, transportation-related public safety activities, maintenance, and operation of transportation facilities. Municipalities are authorized to expend the funds received under this section in conjunction with other cities or counties or state or federal government in joint projects.

(3) (a) If any municipality subject to this section does not have the transportation facilities capability, the municipality may designate by resolution the projects to be undertaken, and the engineering may be thereafter performed and administered and the construction administered by the Department of Transportation or, in the case of a municipality, by the appropriate county, if such county has the capability and agrees to undertake the projects.

(b) In the event the municipality desires the Department of Transportation either to perform or administer the engineering services or to administer the construction, or both, it must so indicate at the time of the presentation of the annual budget or it must so designate at the time the county presents its annual budget.

206.86 Definitions.--As used in this part:

(1) **"Diesel fuel"** means all petroleum distillates commonly known as diesel or any other product blended with diesel or any product placed into the storage supply tank of a diesel-powered motor vehicle.

...

206.87 Levy of tax.--

(1) (a) An excise tax of 4 cents per gallon is hereby imposed upon each net gallon of diesel fuel subject to the tax under subsection (2), except alternative fuels which are subject to the fee imposed by s. 206.877.

(b) An additional tax of 1 cent per net gallon shall be imposed by each county on each net gallon of diesel fuel, which shall be designated as the "ninth-cent fuel tax." This tax shall be used as provided in s. 336.021.

(c) An additional tax of 6 cents per net gallon shall be imposed on diesel fuel by each county, which shall be designated as the "local option fuel tax." This tax shall be levied

and used as provided in s. 336.025.

Chapter 334 TRANSPORTATION ADMINISTRATION

334.03 Definitions.—When used in the Florida Transportation Code, the term:

...
(2) "Bridge" means a structure, including supports, erected over a depression or an obstruction, such as water or a highway or railway, and having a track or passageway for carrying traffic as defined in chapter 316 or other moving loads.

(3) "City street system" means all local roads within a municipality, and all collector roads inside that municipality, which are not in the county road system.

(4) "Collector road" means a route providing service which is of relatively moderate average traffic volume, moderately average trip length, and moderately average operating speed. Such a route also collects and distributes traffic between local roads or arterial roads and serves as a linkage between land access and mobility needs.

...
(8) "County road system" means all collector roads in the unincorporated areas of a county and all extensions of such collector roads into and through any incorporated areas, all local roads in the unincorporated areas, and all urban minor arterial roads not in the State Highway System.

...
(15) "Local road" means a route providing service which is of relatively low average traffic volume, short average trip length or minimal through-traffic movements, and high land access for abutting property.

...
(19) "Periodic maintenance" means activities that are large in scope and require a major work effort to restore deteriorated components of the transportation system to a safe and serviceable condition, including, but not limited to, the repair of large bridge structures, major repairs to bridges and bridge systems, and the mineral sealing of lengthy sections of roadway.

...
(22) "Right-of-way" means land in which the state, the department, a county, or a municipality owns the fee or has an easement devoted to or required for use as a transportation facility.

(23) "Road" means a way open to travel by the public, including, but not limited to, a street, highway, or alley. The term includes associated sidewalks, the roadbed, the right-of-way, and all culverts, drains, sluices, ditches, water storage areas, waterways, embankments, slopes, retaining walls, bridges, tunnels, and viaducts necessary for the maintenance of travel and all ferries used in connection therewith.

(24) "Routine maintenance" means minor repairs and associated tasks necessary to

maintain a safe and efficient transportation system. The term includes: pavement patching; shoulder repair; cleaning and repair of drainage ditches, traffic signs, and structures; mowing; bridge inspection and maintenance; pavement striping; litter cleanup; and other similar activities.

...

(27) "State road" means a street, road, highway, or other way open to travel by the public generally and dedicated to the public use according to law or by prescription and designated by the department, as provided by law, as part of the State Highway System.

(28) "Structure" means a bridge, viaduct, tunnel, causeway, approach, ferry slip, culvert, toll plaza, gate, or other similar facility used in connection with a transportation facility.

...

(31) "Transportation facility" means any means for the transportation of people or property from place to place which is constructed, operated, or maintained in whole or in part from public funds. The term includes the property or property rights, both real and personal, which have been or may be established by public bodies for the transportation of people or property from place to place.

CHAPTER 336 COUNTY ROAD SYSTEM

336.01 Designation of county road system.— The county road system shall be as defined in s. 334.03(8).

336.02 Responsibility for county road system; approval of maps of reservation.—

(1)(a) The commissioners are invested with the general superintendence and control of the county roads and structures within their respective counties, and they may establish new roads, change and discontinue old roads, and keep the roads in good repair in the manner herein provided. They are responsible for establishing the width and grade of such roads and structures in their respective counties.

336.021 County transportation system; levy of ninth-cent fuel tax on motor fuel and diesel fuel.—

(1)(a) Any county in the state, **by extraordinary vote** of the membership of its governing body or subject to a referendum, **may levy** the tax imposed by ss. 206.41(1)(d) and 206.87(1)(b). County and municipal governments may use the moneys received under this paragraph only for transportation expenditures as defined in s. 336.025(7).

(b) The governing body of the county **may, by joint agreement with one or more of the municipalities located therein, provide for the transportation purposes authorized under paragraph (a) and the distribution of the proceeds of this tax within both the**

unincorporated and incorporated areas of the county. The provisions for refund provided in ss. 206.625 and 206.64 shall not be applicable to such tax levied by any county.

(c) **Local option taxes collected on sales or use of diesel fuel** in this state shall be distributed in the following manner:

...
(2)(a) The tax collected by the department pursuant to subsection (1) shall be transferred to the Ninth-cent Fuel Tax Trust Fund, which fund is created for distribution to the counties pursuant to paragraph (1)(d). The department shall deduct the administrative costs incurred by it in collecting, administering, enforcing, and distributing back to the counties the tax, which administrative costs may not exceed 2 percent of collections authorized by this section.

...
(3) It is expressly recognized and declared by the Legislature that the establishment, operation, and maintenance of a transportation system and related facilities and the acquisition, construction, reconstruction, and maintenance of roads and streets fulfill a public purpose and that payment of the costs and expenses therefor may be made from county general funds, special taxing district funds, or such other funds as may be authorized by special or general law. **Counties are authorized to expend the funds received under this section in conjunction with the state or federal government in joint projects.**

(4)(a) A certified copy of the ordinance proposing to levy the tax pursuant to referendum shall be furnished by the county to the department within 10 days after approval of such ordinance.

Furthermore, the county levying the tax pursuant to referendum shall notify the department within 10 days after the passage of the referendum of such passage and of the time period during which the tax will be levied. The failure to furnish the certified copy will not invalidate the passage of the ordinance.

(b) A county levying the tax pursuant to ordinance shall notify the department within 10 days after the governing body of the county adopts the ordinance and, at the same time, furnish the department with a certified copy of the ordinance.

(5) All impositions of the tax shall be levied before July 1 of each year to be effective January 1 of the following year. However, levies of the tax which were in effect on July 1, 2002, and which expire on August 31 of any year may be reimposed at the current authorized rate to be effective September 1 of the year of expiration. All impositions shall be required to end on December 31 of a year. A decision to rescind the tax shall not take effect on any date other than December 31 and shall require a minimum of 60 days' notice to the department of such

decision.

(6) Notwithstanding any other provision of this section, the tax authorized pursuant to this section shall be levied in every county at the rate of 1 cent per gallon of diesel fuel beginning January 1, 1994.

336.023 Use by counties of the surplus from the constitutional gas tax.--

(1) Any county which has agreed prior to July 1, 1977, by resolution, to use the surplus of the constitutional gas tax to provide a connecting road to a planned interchange on the interstate

system shall provide such connecting road.

(2) Any surplus which is not otherwise used to provide connecting roads pursuant to subsection (1) shall be used on any road in the county at the discretion of the county governing body.

336.024 Distribution of constitutional gas tax.-- Effective July 1, 1983, the State Board of Administration shall assume the responsibility for distribution of the counties' 80-percent share of the constitutional gas tax in the same manner as the 20-percent share is currently distributed pursuant to s. 206.47; however, the State Board of Administration shall assure that county funds are made available to the department to be held in escrow for any construction underway on behalf of the county pursuant to resolution of the county governing body.

336.025 County transportation system; levy of local option fuel tax on motor fuel and diesel fuel.--

(1)(a) In addition to other taxes allowed by law, there may be levied as provided in ss. 206.41(1)(e) and 206.87(1)(c) a 1-cent, 2-cent, 3-cent, 4-cent, 5-cent, or 6-cent local option fuel tax upon every gallon of motor fuel and diesel fuel sold in a county and taxed under the provisions of part I or part II of chapter 206.

1. All impositions and rate changes of the tax shall be levied before July 1 to be effective January 1 of the following year for a period not to exceed 30 years, and the applicable method of distribution shall be established pursuant to subsection (3) or subsection (4). However, levies of the tax which were in effect on July 1, 2002, and which expire on August 31 of any year may be reimposed at the current authorized rate effective September 1 of the year of expiration. Upon expiration, the tax may be relevied provided that a redetermination of the method of distribution is made as provided in this section.

2. County and municipal governments shall utilize moneys received pursuant to this paragraph only for transportation expenditures.

3. Any tax levied pursuant to this paragraph may be extended on a majority vote of the governing body of the county. A redetermination of the method of distribution shall be established pursuant to subsection (3) or subsection (4), if, after July 1, 1986, the tax is

extended or the tax rate changed, for the period of extension or for the additional tax.

(b) In addition to other taxes allowed by law, there may be levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent, 3-cent, 4-cent, or 5-cent local option fuel tax upon every gallon of motor fuel sold in a county and taxed under the provisions of part I of chapter 206. The tax shall be levied by an ordinance adopted by a majority plus one vote of the membership of the governing body of the county or by referendum.

1. All impositions and rate changes of the tax shall be levied before July 1, to be effective January 1 of the following year. However, levies of the tax which were in effect on July 1, 2002, and which expire on August 31 of any year may be reimposed at the current authorized rate effective September 1 of the year of expiration.

2. The county may, prior to levy of the tax, establish by interlocal agreement with one or more municipalities located therein, representing a majority of the population of the incorporated area within the county, a distribution formula for dividing the entire proceeds of the tax among county government and all eligible municipalities within the county. If no interlocal agreement is adopted before the effective date of the tax, tax revenues shall be distributed pursuant to the provisions of subsection (4). If no interlocal agreement exists, a new interlocal agreement may be established prior to June 1 of any year pursuant to this subparagraph. However, any interlocal agreement agreed to under this subparagraph after the initial levy of the tax or change in the tax rate authorized in this section shall under no circumstances materially or adversely affect the rights of holders of outstanding bonds which are backed by taxes authorized by this paragraph, and the amounts distributed to the county government and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolution outstanding on the date of establishment of the new interlocal agreement.

3. County and municipal governments shall utilize moneys received pursuant to this paragraph only for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted comprehensive plan. For purposes of this paragraph,

expenditures for the construction of new roads, the reconstruction or resurfacing of existing paved roads, or the paving of existing graded roads shall be deemed to increase capacity and such projects shall be included in the capital improvements element of an adopted comprehensive plan. **Expenditures for purposes of this paragraph shall not include routine maintenance of roads. ...**

(d) If an interlocal agreement entered into under this section does not provide for automatic adjustments or periodic review by the local governmental entities of the method of distribution of local option fuel tax revenues, the parties to the agreement shall review and hold public hearings on the terms of the agreement at least every 2 years.

(2)(a) The tax levied pursuant to paragraph (1)(a) shall be collected and remitted in the same manner provided by ss. 206.41(1)(e) and 206.87(1)(c). The tax levied pursuant to paragraph

(1)(b) shall be collected and remitted in the same manner provided by s. 206.41(1)(e). The taxes remitted pursuant to this section shall be transferred to the Local Option Fuel Tax

Trust Fund, which fund is created for distribution to the county and eligible municipal governments within the county in which the tax was collected and which fund is subject to the service charge imposed in chapter 215. The tax shall be distributed monthly by the department in the same manner provided by s. 336.021(1)(c) and (d). The department shall deduct the administrative costs incurred by it in collecting, administering, enforcing, and distributing back to the counties the tax, which administrative costs may not exceed 2 percent of collections authorized by this section.

....
(3) The tax authorized pursuant to paragraph (1)(a) shall be levied using either of the following procedures:

(a) The tax may be levied by an ordinance adopted by a majority vote of the governing body or upon approval by referendum. Such ordinance shall be adopted in accordance with the requirements imposed under one of the following circumstances, whichever is applicable:

1. The county may, prior to June 1, establish by interlocal agreement with one or more of the municipalities located therein, representing a majority of the population of the incorporated area within the county, a distribution formula for dividing the entire proceeds of the local option fuel tax among the county government and all eligible municipalities within the county. If no interlocal agreement exists, a new interlocal agreement may be established prior to August 1, 1986, or June 1 of any year thereafter pursuant to this subparagraph. However, any interlocal agreement agreed to under this subparagraph after the initial imposition of the tax, extension of the tax, or change in the tax rate authorized in this section shall under no circumstances materially or adversely affect the rights of holders of outstanding bonds which are backed by taxes authorized by this section, and the amounts distributed to the county government and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolution outstanding on the date of establishment of the new interlocal agreement.

2. If an interlocal agreement has not been executed pursuant to subparagraph 1., the county may, prior to June 10, adopt a resolution of intent to levy the tax allowed in paragraph (1)(a).

....
(b) If no interlocal agreement or resolution is adopted pursuant to subparagraph (a)1. or subparagraph (a)2., municipalities representing more than 50 percent of the county population may, prior to June 20, adopt uniform resolutions approving the local option tax, establishing the duration of the levy and the rate authorized in paragraph (1)(a), and setting the date for a countywide referendum on whether to levy the tax. A referendum shall be held in accordance with the provisions of such resolution and applicable state law, provided that the county shall bear the costs thereof. The tax shall be levied and collected countywide on January 1 following 30 days after voter approval.

(4)(a) If the tax authorized pursuant to paragraph (1)(a) is levied under the circumstances of subparagraph (3)(a)2. or paragraph (3)(b), the proceeds of the tax shall be distributed among the county government and eligible municipalities based on the transportation expenditures of

each for the immediately preceding 5 fiscal years, as a proportion of the total of such expenditures for the county and all municipalities within the county. After the initial levy of a tax being distributed pursuant to the provisions of this paragraph, the proportions shall be recalculated every 10 years based on the transportation expenditures of the immediately preceding 5 years. However, such recalculation shall under no circumstances materially or adversely affect the rights of holders of bonds outstanding on July 1, 1986, which are backed by taxes authorized in paragraph (1)(a), and the amounts distributed to the county government and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolution outstanding on the date of the recalculation.

(b) Any newly incorporated municipality which is eligible for participation in the distribution of moneys under parts II and VI of chapter 218 and which is located in a county levying the tax

pursuant to paragraph (1)(a) or paragraph (1)(b) is entitled to receive a share of the tax revenues. Distribution of such revenues to a newly incorporated municipality shall begin in the first full

fiscal year following incorporation. The distribution to a newly incorporated municipality shall be:

1. Equal to the county's per lane mile expenditure in the previous year times the lane miles within the jurisdiction or responsibility of the municipality, in which case the county's share shall be reduced proportionately; or
2. Determined by the local act incorporating the municipality.

Such distribution shall under no circumstances materially or adversely affect the rights of holders of outstanding bonds which are backed by taxes authorized in this section, and the amounts distributed to the county government and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolution outstanding on the date of the redistribution.

....

(6) Only those municipalities and counties eligible for participation in the distribution of moneys under parts II and VI of chapter 218 are eligible to receive moneys under this section. Any funds otherwise undistributed because of ineligibility shall be distributed to eligible governments within the county in proportion to other moneys distributed pursuant to this section.

(7) For the purposes of this section, "transportation expenditures" means expenditures by the local government from local or state shared revenue sources, excluding expenditures of bond proceeds, for the following programs:

(a) Public transportation operations and maintenance.

(b) Roadway and right-of-way maintenance and equipment and structures used primarily for the storage and maintenance of such equipment.

- (c) Roadway and right-of-way drainage.
- (d) Street lighting.
- (e) Traffic signs, traffic engineering, signalization, and pavement markings.
- (f) Bridge maintenance and operation.
- (g) Debt service and current expenditures for transportation capital projects in the foregoing program areas, including construction or reconstruction of roads.

....

(9) *Notwithstanding any other provision of this section, the tax on diesel fuel authorized in this section shall be levied in every county at the rate of 6 cents per net gallon.*

336.0255 Distribution of additional local option tax.--Notwithstanding the provisions of s. 336.025, for calendar year 1993, the tax authorized in s. 336.025(1)(b) shall be imposed to November 1, 1993, to be effective January 1, 1994. Notwithstanding the provisions of s. 336.025, the county may, prior to September 1, 1993, establish by interlocal agreement with one or more of the municipalities located therein, representing a majority of the population of the incorporated area within the county, a distribution formula for dividing the entire proceeds of the local option gas tax among the county government and all eligible municipalities within the county and the proceeds of the tax shall be distributed among the county government and eligible municipalities based on the interlocal agreement. If no interlocal agreement is reached prior to September 1, 1993, the proceeds of the tax imposed prior to November 1, 1993, shall be distributed among the county government and eligible municipalities based on the transportation expenditures of each for the immediately preceding 5 fiscal years, as a proportion of the total of such expenditures for the county and all municipalities within the county. After the initial imposition of a tax imposed prior to November 1, 1993, and distributed based on historical transportation expenditures, the proportions shall be recalculated every 10 years based on the transportation expenditures of the immediately preceding 5 years. However, such recalculation shall under no circumstances materially or adversely affect the rights of holders of outstanding bonds, which are backed by taxes authorized in this section, and the amounts distributed to the county government and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolution outstanding on the date of the recalculation.

336.045 Uniform minimum standards for design, construction, and maintenance; advisory committees.--

(1) The department shall develop and adopt uniform minimum standards and criteria for the design, construction, and maintenance of all public streets, roads, highways, bridges, sidewalks, curbs and curb ramps, crosswalks, where feasible, bicycle ways, underpasses, and overpasses used by the public for vehicular and pedestrian traffic. In developing such

standards and criteria, the department shall consider design approaches which provide for the compatibility of such facilities with the surrounding natural or manmade environment; the safety and security of public spaces; and the appropriate aesthetics based upon scale, color, architectural style, materials used to construct the facilities, and the landscape design and landscape materials around the facilities. The department shall annually provide funds in its tentative work program to implement the provisions of this subsection relating to aesthetic design standards. The minimum standards adopted must include a requirement that permanent curb ramps be provided at crosswalks at all intersections where curbs and sidewalks are constructed in order to give handicapped persons and persons in wheelchairs safe access to crosswalks.

....
(4) All design and construction plans for projects that are to become part of the county road system and are required to conform with the design and construction standards established pursuant to subsection (1) must be certified to be in substantial conformance with the standards established pursuant to subsection (1) that are then in effect by a professional engineer who is registered in this state.

(6) If the governing body of a county or municipality has adopted a design element as part of its comprehensive plan pursuant to part II of chapter 163, the department shall consider such element during project development of transportation facilities. The design of transportation facilities constructed by the department within the boundaries of that county or municipality must be consistent with that element to the maximum extent feasible.

....
336.08 Relocation or change of roads.--The commissioners may establish, locate, change, or discontinue public county roads by resolution.

336.09 Closing and abandonment of roads; authority.--

(1) The commissioners, with respect to property under their control may in their own discretion, and of their own motion, or upon the request of any agency of the state, or of the federal government, or upon petition of any person or persons, are hereby authorized and empowered to:

(a) Vacate, abandon, discontinue and close any existing public or private street, alleyway, road, highway, or other place used for travel, or any portion thereof, other than a state or federal

highway, and to renounce and disclaim any right of the county and the public in and to any land in connection therewith;

(b) Renounce and disclaim any right of the county and the public in and to any land, or interest therein, acquired by purchase, gift, devise, dedication or prescription for street, alleyway, road or

highway purposes, other than lands acquired for state and federal highway; and

(c) Renounce and disclaim any right of the county and the public in and to land, other than

land constituting, or acquired for, a state or federal highway, delineated on any recorded map or plat as a street, alleyway, road or highway.

(2) The commissioners, upon such motion, request, or petition, may adopt a resolution declaring that at a definite time and place a public hearing will be held to consider the advisability of exercising the authority granted in this section.

336.10 Closing and abandonment of roads; publication of notice.—Before any such road shall be closed and vacated, or before any right or interest of the county or public in any land delineated on any recorded map or plat as a road shall be renounced and disclaimed, the commissioners shall hold a public hearing, and shall publish notice thereof, one time, in a newspaper of general circulation in such county at least 2 weeks prior to the date stated therein for such hearing. After such public hearing, any action of the commissioners, as herein authorized, shall be evidenced by a resolution duly adopted and entered upon the minutes of the commissioners. The request of any agency of the state, or of the United States, or of any person, to the commissioners to take such action shall be in writing and shall be spread upon the minutes of the commissioners; provided, however, that the commissioners of their own motion and discretion, may take action for the purposes hereof. Notice of the adoption of such a resolution by the commissioners shall be published one time, within 30 days following its adoption, in one issue of a newspaper of general circulation published in the county. The proof of publication of notice of public hearing, the resolution as adopted, and the proof of publication of the notice of the adoption of such resolution shall be recorded in the deed records of the county.

336.12 Closing and abandonment of roads; termination of easement; conveyance of fee.—The act of any commissioners in closing or abandoning any such road, or in renouncing or disclaiming any rights in any land delineated on any recorded map as a road, shall abrogate the easement theretofore owned, held, claimed or used by or on behalf of the public and the title of fee owners shall be freed and released therefrom; and if the fee of road space has been vested in the county, same will be thereby surrendered and will vest in the abutting fee owners to the extent and in the same manner as in case of termination of an easement for road purposes.